

**REMARKS****I. General**

The only issue outstanding in the instant application is that claims 1-6, 8, 10-16, 18-21, 23, 25-29 and 31-47 stand rejected under 35 U.S.C. 102(e) as anticipated by *Weaver et al*, U.S. Pat. No. 6,400,335 (hereinafter *Weaver*). Claims 7, 9, 17, 22, 24 and 30 are indicated as allowable.

Applicant hereby traverses the outstanding rejections of the claims, and request reconsideration and withdrawal of the outstanding rejections in light of the amendments and remarks contained herein. Claim 31 is amended above to place claim 33 in independent form, as discussed below. Claims 1-47 remain pending in this application.

**II. Rejection(s) under 35 U.S.C. §102(e)**

As noted above, claims 1-6, 8, 10-16, 18-21, 23, 25-29 and 31-47 stand rejected under 35 U.S.C. 102(e) as anticipated by *Weaver*. Applicant presents the below arguments in traversal of this rejection and respectfully contends that these claims are not anticipated by *Weaver*.

**The recited reference does not teach all claimed limitations.**

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. §2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he elements must be arranged as required by the claim,” see M.P.E.P. § 2131, citing *In re Bond*, 15 US.P.Q.2d 1566 (Fed. Cir. 1990). Applicant respectfully asserts that the rejection does not satisfy at least these requirements.

**A. Claims 1-6, 8 and 10-16**

Independent claim 1 recites “monitoring signal attributes of a signal transmitted to each of said multiple sectors” (emphasis added). *Weaver* does not disclose at least this limitation. As discussed in column 4, lines 3-5, *Weaver* teaches “the load on each of the antenna components of the cell is monitored at a remote location” and at column 4, lines 18-20 *Weaver* provides that “load can be determined at any remote location.” Thus, *Weaver*

fails to teach, and may be said to teach away from, the claimed “monitoring signal attributes of a signal transmitted to each of said multiple sectors” (emphasis added).

Claim 1 also recites “processing said monitored signal attributes into a load metric for each of said multiple sectors” and “selectively adjusting sector dimensions ... responsive to a comparison of said load metric for each of said multiple sectors” (emphasis added). *Weaver* does not disclose at least these limitations. At column 4, line 3, through line 12 of column 5 *Weaver* repeatedly mentions monitoring load of an antenna component and adjusting beam configuration. However, no mention is made, nor is any suggestion given, of processing monitored signal attributes into a load metric, much less adjusting sector dimensions responsive to a comparison of the load metrics for each of said multiple sectors, as defined in claim 1.

For at least the above reasons Applicant respectfully asserts independent claim 1 is patentable over the 35 U.S.C. § 102 rejection of record. Furthermore, there are great differences between claim 1 and the cited reference, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 2-6, 8 and 10-16 ultimately depend from base independent claim 1 and thus inherits all limitations of claim 1. Therefore, each of claims 2-6, 8 and 10-16 set forth features and limitations not recited by *Weaver*. Thus, Applicant respectfully asserts that for the reasons advanced above in response to the anticipation rejection of independent claim 1, claims 2-6, 8 and 10-16 are patentable over the 35 U.S.C. §102 rejection of record.

**B. Claims 18-21, 23 and 25-29**

Independent claim 18 recites “gradually adjusting the dimensions of said multiple sectors responsive to said determined comparative load.” *Weaver* does not disclose at least this limitation. *Weaver*, throughout, discusses adjusting antenna component configuration. However, no mention is made of carrying out such adjustments “gradually,” as recited in claim 18.

Claim 18 also recites “calculating a load indicator for each of said multiple sectors using said measured signal properties” and “comparing said calculated load indicators for each of said multiple sectors to determine comparative load between said multiple sectors”

(emphasis added). *Weaver* also does not disclose at least these limitations. As noted above, at column 4, line 3, through line 12 of column 5, *Weaver* repeatedly mentions monitoring load of an antenna component and adjusting beam configuration. However, no mention is made, nor is any suggestion given of calculating a load indicator for each sector, much less comparing the calculated load indicators to determine comparative load between the sectors, as defined in claim 18.

For at least the above reasons Applicant respectfully asserts independent claim 18 is patentable over the 35 U.S.C. § 102 rejection of record. Furthermore, there are great differences between claim 18 and the cited reference, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 19-21, 23 and 25-29 ultimately depend from base independent claim 18 and thus inherits all limitations of claim 18. Therefore, each of claims 19-21, 23 and 25-29 set forth features and limitations not recited by *Weaver*. Thus, Applicant respectfully asserts that for the reasons advanced above in response to the anticipation rejection of independent claim 18, claims 19-21, 23 and 25-29 are patentable over the 35 U.S.C. §102 rejection of record.

### C. Claims 31-36

In response to the anticipation rejection, independent claim 31 has been amended above to include the limitations of claim 33, thereby placing claim 33 in independent form. Claim 31, as amended, is now claim 33 as originally presented. Claim 32 has been amended, in light of the amendments to claim 31, to clearly indicate that the indicated “determining” step is the “determining an amount of traffic” step.

Claim 31, as amended recites “determining a maximum loaded sector,” “determining a minimum loaded sector,” and “comparing a difference between said maximum and said minimum loaded sector with a predefined traffic differential limit.” *Weaver* does not disclose at least the above recited limitations. *Weaver* only teaches that “the load on each of the antenna components of the cell is monitored at a remote location” and adjusting beam configuration. However, *Weaver* is silent as to determining a maximum and/or minimum loaded sector, much less comparing a difference between such maximum and minimum loaded sector with a predefined traffic differential limit. For at least the above reasons Applicant respectfully asserts independent claim 31, as amended, is patentable over the 35

U.S.C. § 102 rejection of record. Furthermore, there are great differences between claim 31 and the cited reference, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 32-36 ultimately depend from base independent claim 31 and thus inherits all limitations of claim 31, as amended. Therefore, each of claims 32-36 set forth features and limitations not recited by the art of record. Thus, Applicant respectfully asserts that at least for the reasons advanced immediately above, claims 32-36 are also patentable over the 35 U.S.C. §102 rejection of record.

**D. Claims 37-47**

Independent claim 37 recites “monitoring signal attributes of signals received in association with each of said multiple sectors” (emphasis added). The Examiner is encouraged to review the paragraph beginning on line 25 of page 17 of the specification discussing the embodiment of claim 37.

*Weaver* does not disclose at least the above recited limitations. As pointed out above in addressing the anticipation rejection of claim 1, in column 4, lines 3-5, *Weaver* teaches “the load on each of the antenna components of the cell is monitored at a remote location” and at column 4, lines 18-20 *Weaver* provides that “load can be determined at any remote location.” *Weaver* is silent concerning monitoring signal attributes of received signals and *Weaver* may be said to teach away from this claim limitation by virtue of its teaching that load is determined at any remote location rather than at a base station.

Claim 37 also recites “processing said monitored signal attributes into a load metric for each of said multiple sectors” and “selectively adjusting sector dimensions ... responsive to a comparison of said load metric for each of said multiple sectors” (emphasis added). *Weaver* does not disclose at least these limitations. As discussed above with respect to claim 1, *Weaver*, at column 4, line 3, through line 12 of column 5 *Weaver* repeatedly mentions monitoring load of an antenna component and adjusting beam configuration. However, no mention is made, nor is any suggestion given of processing monitored signal attributes into a load metric, much less adjusting sector dimensions responsive to a comparison of the load metrics for each of said multiple sectors, as recited in claim 37.

For at least the above reasons Applicant respectfully asserts independent claim 37 is patentable over the 35 U.S.C. §102 rejection of record. Furthermore, there are great differences between claim 1 and the cited reference, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 38-45 ultimately depend from base independent claim 37 and thus inherits all limitations of claim 37. Therefore, each of claims 38-45 set forth features and limitations not recited by *Weaver*. Thus, Applicant respectfully asserts that for the reasons advanced above in response to the anticipation rejection of independent claim 37, claims 38-45 are patentable over the 35 U.S.C. §102 rejection of record.

#### **IV. Conclusion**

The Examiner is thanked for the indication that claims 7, 9, 17, 22, 24 and 30 include allowable subject matter. For all the reasons given above, and in light of the amendments made above, Applicant respectfully submits that the pending claims distinguish over the prior art of record under 35 U.S.C. §102. Accordingly, Applicant respectfully submits that this application is in full condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2380, under Order No. 65948/P055US/10315921 from which the undersigned is authorized to draw.

Applicant respectfully requests that the Examiner call the below listed attorney if the Examiner believes that the attorney can be helpful in resolving any remaining issues.

Dated: November 3, 2004

Respectfully submitted,

By 

Jerry L. Mahurin

Registration No.: 34, 661

FULBRIGHT & JAWORSKI L.L.P.

2200 Ross Avenue, Suite 2800

Dallas, Texas 75201-2784

(214) 855-8386

(214) 855-8200 (Fax)

Attorney for Applicant